



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: November 20, 2006

COUNCIL DISTRICT: 5, 7 and 8

SNI AREA: West Evergreen, K.O.N.A and
East Valley/680

SUBJECT: EVERGREEN-EAST HILLS VISION STRATEGY (EEHVS) PROJECT INCLUDING A PROPOSED UPDATE TO THE EVERGREEN DEVELOPMENT POLICY (EDP) AND ASSOCIATED GENERAL PLAN TEXT AMENDMENTS AND GENERAL PLAN LAND USE/TRANSPORTATION DIAGRAM AMENDMENTS (FILE NOS. GPT05-08-01 AND GP05-08-01A THROUGH F). THE EEHVS AREA COINCIDES WITH THE EDP AREA, WHICH IS GENERALLY BOUNDED BY STORY ROAD, HIGHWAY 101, HELLYER AVENUE AND WITHIN THE URBAN SERVICE AREA.

RECOMMENDATION

The Planning Commission voted 6-0-1 (Commissioner Zito abstained) to certify the Environmental Impact Report prepared for the project and voted 7-0 to recommend the following: that the City Council adopt either Staff's or the developers' proposed land use alternatives for the Four Opportunity Sites or a reconciled alternative. The Planning Commission also recommended approval of the proposed revised Evergreen Development Policy (EDP) with the following components; (1) Arcadia community center to occur in Phase II; (2) limit the size of a grocery store on the Evergreen Valley College site to 20,000 square feet; (3) Task Force amenity prioritization "H" (in Planning Commission attachment #4); (4) reserve 40 acres on Campus Industrial site for a high school; and (5) the "residential pool" incorporate the following: (a) residential "pool" units be a minimum of 500 units (not a maximum); (b) any excess units from the opportunity sites should go to the pool; (c) pool should be available immediately after Evergreen Development Policy approval; and (d) pool criteria should be flexible to ensure participation of all potential infill parcels.

OUTCOME

City Council approval of the subject Evergreen Development Policy update, General Plan Land Use and Text Amendments, and other associated items would facilitate the build-out of the Evergreen-East Hills area.

BACKGROUND

On November 8, 2006, the Planning Commission held a public hearing to consider a Final Environmental Impact Report on the Evergreen-East Hills Vision Strategy, a proposed Evergreen Development Policy update, and General Plan Text and Land Use/Transportation Diagram amendments.

The Director of Planning Building and Code Enforcement recommended approval of the proposed Evergreen Development Policy update and associated General Plan amendments, as discussed in the attached staff reports.

Record of the Public Hearing on the Environmental Impact Report (EIR)

Staff provided a contextual overview presentation of the Evergreen-East Hills Vision Strategy, including the proposed update to the Evergreen Development Policy and the environmental impact report (EIR). Commissioner Platten suggested that public testimony be provided on the EIR, allowing Commissioner Zito to recuse himself during the EIR discussion, then the Planning Commission would deliberate on the rest of the items.

Commissioner Kalra asked Staff to respond to letters submitted by the Mount Pleasant Elementary School District and Evergreen Elementary School District (see attached comment letters). With respect to the comments in the letters regarding the accuracy of student generation rates and impacts on existing facilities described in the EIR, staff noted that the EIR used student generation rate information provided by each of the school districts. In using the student generation rates described in the letters, Staff indicated that the conclusion of the Draft EIR would remain the same, in that new school facilities in both the Evergreen and Mount Pleasant School Districts will be required to accommodate students generated by the EEHVS. Based on state law, which limits mitigation to school impact fees, staff disagreed with the districts on the degree to which the city can impose mitigation.

Schools

Six Evergreen residents, David Tay, Mike Ivey, Lou Kvitek, Ketan Deshpande, Patrick Hendry and Kumar Padmini together with George Perez, Mount Pleasant Elementary School District Superintendent, expressed concerns regarding the adequacy of the EIR in addressing impacts and mitigation related to schools. The majority of these comments were related to the existing Evergreen area high schools being overcrowded and the need for a new high school in the Evergreen area.

Rogelio Ruiz, representing the East Side Union High School District, stated that the District is in discussion with the Evergreen property owners group with respect to the proposed development's impact on high schools. He added that one year ago the district completed a demographic study on enrollment that concluded the development as proposed would not require a new high school, but

nevertheless there would be impacts on existing facilities. Mr. Ruiz noted that the developers group and the District are close to reaching a mutual resolution in terms of developer fees. Commissioner Platten asked Mr. Ruiz if he was saying the EIR does not adequately address schools. Mr. Ruiz replied that he was not.

Grocery Store on Evergreen Valley College Site

Kelly Erardi, of Shapell Industries, representing the Evergreen Village Center expressed his opposition to a supermarket on the Evergreen Valley College site stating that a new supermarket would have a severe impact on the existing Lunardi's (Evergreen Village Center) and Cosentino's (Canyon Creek Center). Mr. Erardi distributed a packet of information to the Planning Commission and staff (see attached information).

Transportation

Alan Covington and Charles Perrotta, Evergreen residents, commented that, based on Caltrans comments on the Draft EIR, the EIR is inconsistent and incomplete with respect to wait times on Highway 101.

Geology

Alan Covington and Charles Perrotta commented that the Campus Industrial site is only 1,500 feet from the Hayward Fault. Mr. Perrotta added concern regarding the Quimby Fault.

Campus Industrial Lands

Charles Perrotta stated that he was opposed to the EIR because the EIR didn't adequately address the loss of Campus Industrial lands, the impacts on animals and views.

Planning Commission Discussion on EIR

Staff provided a response to the various issues raised during public testimony.

Akoni Danielsen, Planning Environmental Staff, noted that no comments were received from the East Side Union High School District on the EIR conclusions regarding student generation rates.

Regarding geologic issues, Mr. Danielsen noted that the EIR identifies building exclusion zones to protect from fault rupture and landslide. Additional geologic hazards clearances would be required prior to approval of any entitlements on the subject property.

Manuel Pineda, Department of Transportation Staff, addressed comments regarding adequacy of analysis of freeway wait times, noting that it was Caltrans that prepared the queuing analysis. Mr. Pineda added that the EIR identified multiple impacts to 18 freeway segments. With respect to downgrading certain street segments from four lanes to two lanes, Mr. Pineda noted that analysis of projected volumes showed that two lanes would be sufficient.

Akoni Danielsen explained that the four opportunity sites were surveyed by qualified biologists and that the EIR was referred to environmental groups and state agencies, including the Department of Fish and Game, and that there were no comments to modify the EIR.

On the issue of agricultural impacts, Akoni Danielsen explained that the Draft EIR disclosed that the state mapped the properties as having important agricultural lands. During the Draft EIR circulation

the State Department of Conservation stated that the mappings were in error and that the properties did not contain significant agricultural lands.

Regarding the packet of information distributed by Kelly Erardi to the Planning Commission and Staff, Akoni Daniels noted that the Draft EIR comment period concluded on March 20, 2006 and that Staff only received a copy of Mr. Erardi's packet at the November 8, 2006 Planning Commission hearing. Akoni Daniels and Nanci Klein, Office of Economic Development Staff, responded to a comment in the packet, which stated that CEQA requires disclosure and analysis of physical impacts resulting from economic effects of a proposed project. In this case, staff clarified the CEQA issue was whether the proposed supermarket at the Evergreen Valley College site would cause a reasonably foreseeable indirect physical change in the environment by capturing sufficient market share that existing supermarkets would close and their buildings remain vacant for a period of time without maintenance such that they would deteriorate and contribute to blight in Evergreen. Nanci Klein stated that, given the retail market, blight is highly unlikely, and there is potential for the buildings to be occupied with other uses, including religious assembly, instructional, or private indoor recreation, if market conditions would not support additional retail.

Chair Campos asked the City Attorney to explain the thresholds to certify the EIR. The City Attorney explained that the EIR is a disclosure document, and that the vote by the Planning Commission on the EIR in no way means that the Planning Commission is voting for the project. If the Planning Commission didn't certify the EIR then no action could be taken on the remaining items.

Planning Commission Action on the EIR

On Commissioner Platten's motion, the Planning Commission voted 6-0-1 (Zito abstained) to certify the Environmental Impact Report.

Record of the Public Hearing on the Evergreen Development Policy (EDP) Update and General Plan Amendments

Joe Head, of Summerhill Homes, and Steve Dunn, of Legacy Partners, presented the developers' proposal. Mr. Head and Mr. Dunn were also identified as members of the Evergreen-East Hills Vision Strategy Task Force.

Sylvia Alvarez and Bob Levy representing the Evergreen-East Hills Vision Strategy Task Force, presented the Task Force primary proposal.

Staff presented recommendations on the proposed Evergreen Development Policy update and General Plan amendments.

Commissioner Kamkar asked about intersections operating at Level of Service "E". Staff responded that under all of the scenarios evaluated in the EIR there would be multiple intersections that operate at Level of Service "E" or "F".

Commissioner Platten asked if the availability of state bond money for transportation improvements would allow the number of units proposed by the developers to be reduced. Joe Head responded that the developers' proposal provides funding certainty.

Commissioner Platten asked if the Hitachi facility on the Campus Industrial site would be compromised with the proposed conversion. Steve Dunn answered that Hitachi has room on their site for expansion.

Commissioner Platten asked if the East Side Union High School District had asked the developers to reserve land for a high school. Joe Head answered, no.

Commissioner Platten asked the developers about the Task Force alternative proposal that can provide \$235 million for transportation improvements and community amenities. Joe Head responded that the difference is not in the quantity of units, but in the composition. Single-family detached units contribute more money and can be built at a lower cost.

Commissioner Zito asked Staff to confirm that a significant portion of the developers' proposed contribution would go to traffic improvements. Staff responded, yes.

Commissioner Zito asked how much parkland would need to be dedicated. Dave Mitchell, Parks, Recreation & Neighborhood Services Staff, answered that under the developer proposal: 42.6 acres, the Task Force proposal: 28 acres, and the Staff recommendation: 33.6 acres.

Commissioner Zito requested clarification that the City would not be getting 47 acres of additional land under the developer proposal. Joe Head acknowledged that in total the amount of park land would be over and above what would normally be required. Commissioner Zito asked if the developers were dedicating the land for the schools for free. Joe Head responded that in some cases the land would be for sale. Commissioner Zito asked if the developers' contribution to schools would be above their \$235 million contribution. Joe Head answered, yes. Commissioner Zito asked Joe Head if bigger houses would generate more money. Mr. Head answered, yes.

Commissioner Zito explained that members of the Task Force completed a variable contribution analysis for the Task Force proposal and asked Joe Head what the 4,800 unit Staff recommendation would provide in terms of money. Joe Head responded that a fiscal analysis is inappropriate to the public policy discussion. He stated further that discussing traffic or how to build a community is fine, but whether a project can generate \$5 per square foot or \$50 per square foot is not appropriate. Commissioner Zito stated that there is a disagreement on the number of units it would take to provide the amenities and asked the developers to show why the Task Force's numbers aren't correct. Joe Head indicated that 1,000 units is a significant gap, but that the question should be does it make sense to convert the industrial lands and if it doesn't then what.

Commissioner Zito asked about Staff's recommendation for 40-percent open space on the Pleasant Hills Golf Course site. Staff answered that the current General Plan designation of the site is Private Recreation and that Staff is recommending no change on a portion. If the preserved area of Private Recreation-designated land were purchased by the City in the future for municipal purposes it would be changed to Public Park and Open Space. Commissioner Zito asked if the property remained Private Recreation, who would pay for the maintenance? Staff responded that the property owner would be responsible.

Commissioner Zito stated that he was happy to see that Quimby Road was off the list of street segments that were proposed to be downgraded, but was concerned with the proposal to downgrade Murillo considering Murillo serves two existing places of worship. Staff explained that it is possible for the Planning Commission to recommend no change, but Staff took into consideration issues of livability and the addition of bike lanes when the identified street segments were proposed for downgrade.

Commissioner Kalra stated that he understood that reducing the developers' proposal by 1,000 units might not be feasible. He asked how much the developers' proposal could be reduced. Joe Head answered that it would take a lengthy discussion in order for the developers to create credibility that their proposal is viable. The total fees that the development would normally have to provide are significantly less than what is being proposed.

Commissioner Kalra stated that the amount of money collected for traffic should be dealt with by the City, for example through bond money for Highway 101. Staff pointed out that the Evergreen Development Policy (EDP) states that if other funds are available for transportation improvements the money saved could go to pay for operations and maintenance of transportation facilities and community amenities or implement additional items from the amenities list. Staff noted that Highway 101 improvements have been a top priority and until recently it looked like state funding for Highway 101 was 10-years away.

Commissioner Kalra asked why Staff's recommendation regarding commercial on the Arcadia property was so different from the Task Force and developer proposals. Staff responded that 300,000 square feet would maximize the retail potential on the site, provide for more internalization of local trips and provide anchor stores to draw other retail and restaurant tenants.

Office of Economic Development Staff noted that a bookstore and Trader Joe's would not, for various reasons, locate on the Eastridge Mall site, but would want to locate on the Arcadia site.

Commissioner Kalra asked about the amount of commercial/office on the Evergreen College site. Staff stated that the Evergreen area is 20-percent under-retailed, so Staff's recommendation is to provide flexibility. Commissioner Kalra expressed concern about the negative impacts of allowing a grocery store on the college site. Staff emphasized that it is not in the city's interest to see retail fail and that even if a grocery was precluded on the college site that would not ensure that Lunardi's wouldn't fail.

Campus Industrial

Myron Crawford, representing Berg and Berg Enterprises, noted objections to retention of any Campus Industrial lands and any requirements for affordable or in-lieu fees on campus industrial sites. Commissioner Kamkar asked Mr. Crawford's opinion on the value of jobs being closer to residential to reduce traffic. Mr. Crawford answered that industrial generates double the number of trips compared with residential. Commissioner Kamkar responded that industrial traffic is not during peak time, so it's not the number of trips, but the time. Mr. Crawford clarified that he raised objections to maintain legal rights to challenge. The City Attorney asked Mr. Crawford to clarify that Berg & Berg Enterprises is part of the developers' voluntary offer of \$235 million. Mr. Crawford answered yes Berg & Berg Enterprises is part of the offer.

Steven Cox, Task Force member representing citywide business interests, stated his opposition to Staff's and the Task Force recommendations to retain a portion of the Campus Industrial area. He added that the location is inappropriate and that 4.66 million square feet of industrial could be built without any traffic improvements.

Residential Pool Units

Jim Rendler, on behalf of his grandmother, an Evergreen resident and owner of a small parcel, asked if the 500 residential pool unit estimate was based on current General Plan designations and asked that small sites have opportunities to develop. Staff answered that it was anticipated that there would be some General Plan amendments on a case-by-case basis. Commissioner Kamkar asked about Mr. Rendler's experience as a small property owner in the process. Mr. Rendler stated that he has attended many Task Force meetings over approximately one year. Chair Campos asked if Mr. Rendler was amenable to inclusionary housing requirements on his property. Mr. Rendler answered that he wasn't sure.

Amenities

Carlos DaSilva, Task Force member and co-chair of the West Evergreen SNI, expressed that his main concern is the community center proposed on the Arcadia site, and that he felt if the community center is not at the top of the amenities list it would get left out. Mr. DaSilva also noted his concern that the Arcadia Site is turning into the dumping ground for the area's amenities and proposed commercial space.

High School

Evergreen residents Lou Kvitek, Dave Tang, Bonnie Mace, Tom Huff, Jean Valencia, Frank Biehl, Michelle Tang, Kevin Vitale, Bea Baechle, Ana Huff, and Robin Guzikowski spoke regarding the need for a new high school in the Evergreen area. Much of the individual testimony regarding the high school issue was given as part of a presentation that was distributed to the Planning Commission and Staff (see attached community comments/petitions). The presenters indicated the following:

- The need to reserve land now for a future high school
- Modifying the school district boundaries won't solve the overcrowding problems
- A high school location in Edenvale or outside the urban service area is not an option
- The school district needs to plan for the long-term

Commissioner Platten asked Mr. Biehl, a recently elected high school board member, about the District's April 12th letter that talked about interest in land south of the Evergreen Development Policy area for a new high school. Mr. Biehl answered that he was not sure what the board's position is, but noted that there was some discussion among district Staff about a high school in Edenvale, however, that proposal is not supported by City staff. Mr. Biehl noted that there is a lot of community resistance to sending kids to a school that is not in the EDP area. Commissioner Zito asked whether the demographers report indicates there is capacity in the district. Mr. Biehl stated that capacity tends to be in the north part of the district (Independence, Yerba Buena and James Lick High Schools), Silver Creek and Evergreen Valley High Schools are impacted. Commissioner Kalra noted that the high school district has not agreed that a new high school site would be necessary. Mr. Biehl stated that they may have indicated a need in the southern part of the district, probably in Edenvale, but based on community feedback the need is in Evergreen.

Rogelio Ruiz, representing the East Side Union High School District, provided clarification on an earlier discussion regarding the April 12, 2006 letter signed by the district superintendent and the board president, which represented the District's official policy position as adopted by a majority of the board. Regarding the reservation of land, the board discussion was to reserve land in the southeast portion of the district, not within the Evergreen study area. Responding to a question from Commissioner Kamkar, Mr. Ruiz stated that the likelihood of eligibility for funding a new high school is low given the capacity within the district. Commissioner Zito asked if the developers' were going to contribute to the District's capital improvement program. Mr. Ruiz answered that there have been discussions with the developers' to reach an agreement to include development fees beyond what would normally be required by law. Commissioner Zito asked if that meant schools would be made bigger. Mr. Ruiz responded that one way to use the fees would be to modernize existing schools, look at schools where there is some capacity and re-align boundaries which could relieve pressure in the southern part of the district.

Commissioner Zito asked Pat Sausedo, former District 8 Councilwoman, how the Evergreen Specific Plan dealt with the high school issue. Ms. Sausedo answered that the East Side Union High School District owned property on Quimby and proactively moved forward with plans for a new high school. To Commissioner Zito's question about whether ESP itself justified a new high school, Ms. Sausedo answered that she didn't believe it did on its own.

Commissioner Zito asked Michael Hill, representing the San José/Evergreen Community College District, about whether a high school on the 27 acres of Evergreen College would be feasible. Mr. Hill stated that the College District talked to the High School District in the 1990's, but that the high school district wanted property further south and had conflicting issues that would need to be worked through. Mr. Hill added that if the High School District wanted the land, the College District would expect them to pay rent right away.

Grocery Store on Evergreen Valley College Site

Michael Mace, Evergreen resident, asked the City to hold the Evergreen College to their previous commitment to not build a grocery store.

Pat Sausedo, representing Canyon Creek and Evergreen Village Center, stated that the Evergreen Specific Plan (ESP) Task Force in the early 1990's determined that a grocery store is critical to anchor the Evergreen Village Center or the rest of the center would not survive. Answering a question from Commissioner Zito, Ms. Sausedo noted that the market analysis showed the market is already over-saturated with grocery stores and that Staff supporting a grocery store on Evergreen College is shocking. Chair Campos asked what constitutes a full-service grocery. Ms. Sausedo answered that 50,000 square feet would be a full service grocery store and that Lunardi's is approximately 35,000 square feet.

Kelly Erardi, representing Shapell Industries, read from a 1995 General Plan Staff report regarding the potential impact to the Evergreen Village Center from a proposal to change the General Plan on the Evergreen Valley College site. Staff recommended no change to the college General Plan designation at that time in order to encourage filling tenant space at the Village Center. Mr. Erardi stated that a supermarket at the college site would have negative affects on the Village Center. Chair Campos asked if 50,000 square feet was large enough to accommodate a full-service grocery. Mr.

Erardi stated that 50,000 square feet is in the range of a full-service grocery noting a few Shapell projects: Nob-Hill is 30,000 square feet, Safeway 55-60,000 square feet, Whole Foods 30,000 square feet, and Lunardi's 40,000 square feet.

Alonzo Pedrin, representing Alfred Gobar associates, stated that the success of a grocery store at the Evergreen College site would be at the expense of the Evergreen Village Center and Canyon Creek Plaza. Mr. Pedrin noted that there is potential for retail, not a grocery store on the College site. He stated that the General Plan amendment doesn't address the issue of urban decay.

Ed Abelite, managing general partner of Canyon Creek Plaza, stated his opposition to the Evergreen Valley College's proposal to develop a full-service grocery store. Mr. Abelite referenced Vision and Expected Outcome No. 7, which states: "capture new retail and commercial opportunities while strengthening all existing retail including the commercial center at the Evergreen village". Mr. Abelite noted that he had 2,976 names on a petition against a new grocery store. He stated he expected to have 5,000 names by the City Council meeting. Mr. Abelite concurred that the area didn't need another grocery store. Commissioner Kalra asked how Mr. Abelite felt about triggers such as the business success of Cosentino's and Lunardi's and housing development. Mr. Abelite stated that his preference would be no triggers and that 3,600 to 5,700 dwelling units did not represent a lot of stomachs with a large portion of those not related to the area.

Joan Gallo, representing Canyon Creek Plaza, referenced a letter submitted to the Planning Commission. Ms. Gallo stated that the specter of a full-service grocery possibility at the College site means future tenants of the Cosentino's space would be wary of moving in.

Michael Hill, representing the San José/Evergreen Community College District, noted that the studies for the Evergreen Specific Plan were done in 1991 and now it is 2006, and that the City retail study is un-biased in its conclusion that the Evergreen College site was the best site for a new supermarket with full build-out of Lunardi's. Commissioner Kalra asked if the college had any alternate use ideas. Mr. Hill stated that the District has talked to many interested parties about their mixed-use plan that includes 40-percent deed restricted affordable housing, including talking to Shapell and Ed Abelite about options. The College District is not intending to sell the property, but will be involved in long-term leasing. Commissioner Kalra asked about the possibility of a smaller grocery store of 20-25,000 square feet. Mr. Hill answered that there has not been interest for a small store, but there has been interest for a larger store.

Commissioner Zito asked about the Evergreen College letter that many people refer to. Mr. Hill answered that at the time the letter was written in October 1996 the College determined that they would go forward with the proposal that they wanted, but would limit their development to 6 acres. The District honored that agreement, but not in perpetuity. Commissioner Zito asked when the College would see a grocery store come on-line. Mr. Hill responded the earliest would be two years, maybe as long as three years.

Traffic

Charles Perotta, Evergreen resident, stated that the reduction in traffic from Level of Service (LOS) D to E or F would result in civil unrest, that adding a lane to Highway 101 wouldn't help, that he was unclear how much money would be coming from the developers versus a financing district, and that there was no nexus for using a financing district to pay for general benefit improvements.

Ike White, representing the Pleasant Hills Neighborhood Association, suggested if the Pleasant Hills Golf Course site is developed concerns regarding increased traffic will have to be addressed together with how people will get to school onto or from the golf course site without impacting Flint Avenue.

Homing Yip, Evergreen resident, stated that the project has no improvements, and that 6,000 houses versus 3,000 houses doesn't make a difference, because adding one house adds traffic delay.

Open Space/Recreation

Ellie Glass, representing the Pala Rancho neighborhood composed of 248 homes and a cabana club, stated that with the proposal for the Pleasant Hills Golf Course site, quality of life is at risk. Ms. Glass asked that the Pleasant Hills Golf Course be retained as open space and that the Planning Commission had the power to make that recommendation. Ms. Glass also noted that the houses in the area have not been selling, staying on the market for 6 to 9 months.

Shawna Sanders, representing the Pala Rancho neighborhood, stated that the Pleasant Hills Golf Course is unique amongst the other opportunity sites in that it is currently zoned private recreation and was operated as a successful golf course. Ms. Sanders noted that the site was only part of the process for two years. She asked for clarification on the difference between the Task Force proposal and Staff recommendation.

Quality of Life

Mike Alvarado, Evergreen resident, stated three factors/concerns: that there is not equity in who is bearing the cost of development; the planning process was compromised; and small job creators were not represented. Mr. Alvarado recommended the Planning Commission either adopt the Task Force proposal or postpone consideration and incorporate the project into the General Plan update.

Terry Gotcher, Evergreen resident, made the analogy that amenities are like a burglar that breaks into your house and then offers some of your property back if you don't tell the authorities.

Gordon Lund, Evergreen resident, suggested that it would be a shame to give up right-of-way on Murillo. Mr. Lund stated that quality of life equals jobs, residential and amenities altogether in the same community and not just corporate, but small businesses too. He suggested an alternative for the Evergreen College site would be a large sports center.

Dan Gould, Evergreen resident, stated that Level of Service "E" is not acceptable and that any fees derived from local development should remain local, shouldn't pay for 101 or go to the East Side Union High School District.

Bob Rivet, Evergreen resident, expressed that there is a big difference between 3,600 units and 5,700 units and that he would be willing to give up amenities to have 2,000 less units.

Closing Comments

The developer group representatives, Task Force representatives and Staff provided closing comments. Joe Head stated that the developers don't favor or dis-favor a high school and noted that the elementary school districts came to the developers with a clear description of what they needed. Mr. Head added that the choice of amenities is the City's decision. Commissioner Platten asked if

the 50-acre requirement for a high school was infeasible. Joe Head responded that if all other requirements remain the same then yes, but if there is room to consider trading-off other amenities, then that size high school may be feasible. Commissioner Zito asked Lou Kvitek if the public was asking for a gift of land for a high school. Mr. Kvitek answered, no, just reservation of land, and only 40 acres. Staff provided an overview of Staff's recommendation, which was based on consistency with the: Council-adopted Vision & Expected Outcomes; the San José 2020 General Plan Major Strategies and Goals; and the Council adopted Framework for Conversion of Employment Lands to Other Uses.

Planning Commission Discussion on EDP Update and General Plan Amendments

Staff responded to the issues raised regarding the need for a new high school by citing state law, which limits mitigation for school impacts from new development to fees paid based on prescribed formulas. Staff also noted that any of the proposed development scenarios would result in significant unavoidable environmental impacts.

Chair Campos expressed concern with how the Evergreen Development Policy proposed to divide up the allocation pool of residential units reserved for small projects. He was concerned that there might not be enough 4-unit or less projects and units might sit in the pool un-used. Chair Campos suggested providing flexibility by increasing the pool to 10-units or less. Commissioner Zito asked Staff the impact of going to 10-units or less. Staff responded that there probably would not be much impact.

Commissioner Zito stated that the developers expect the pool units to pay into the \$235 million developer contribution. The City Attorney responded that there has to be a nexus under state law for such a requirement, and there is no nexus between the pool units and the amenities. The \$235 million proposed by the developers doesn't have a nexus to the proposed new residential development.

Commissioner Zito asked what is the intent of the pool units and what would happen if the pool were zero. Staff responded that the pool units are a relief valve to allow infill and re-use development, if the pool were zero such small projects would not be allowed under the EDP.

Commissioner Zito asked about the ramifications of allowing the smaller 150,000 square feet of retail on Arcadia. Staff stated that the area is currently under-served by retail and that the total proposed 575,000 square feet of commercial/office uses within the EDP area provides general fund revenue to support municipal services.

Commissioner Zito asked if the community center on the Arcadia site could be moved to Phase II. Staff noted that could be part of Planning Commissions recommendation. With the community center in the southwest corner of the site farthest away from access to Quimby Road and Capitol Expressway, the community could be given the choice to build the community center in advance of the site developing if the community accepts traffic for the community center moving through their neighborhood.

Commissioner Kalra asked Staff for a definition of full-service grocery. Staff responded that a full-service grocery would provide a wide array of foods and services.

Responding to Commissioner Dhillon's comments regarding the 500 pool units, Staff noted that in addition to the pool units, there are approximately 298 current allocations as part of the existing EDP that will not go away as part of the EDP update. Staff noted that the 500 pool unit number was derived from Staff's analysis of vacant and underutilized lands within the EDP area.

Chair Campos recommended making pool units available upon first entitlement.

Commissioner Zito asked about how the EDP handles Community Facilities Districts (CFDs). Staff responded that they would be used for maintenance.

Commissioner Kamkar suggested that the City shouldn't be content with LOS "E" or worse that the number of proposed new units should be reduced instead. He also suggested that 25% of the pool units should be reserved for 8 units or less and 45% for 20 units or less and that the pool units should have the same timing as the other units. Commissioner Kamkar liked Staff's proposal that the pool units pay a Traffic Impact Fee (TIF) and be subject to the Parkland Dedication Ordinance (PDO/PIO). Chair Campos reiterated that the pool units should be available at initial entitlement.

Planning Commission Action on EDP Update and General Plan Amendments

Commissioner Platten made the following motion with respect to items 7.a.2 (EDP) and 7.b.1 through 5 (General Plan Amendments): the Planning Commission has considered the EIR and found it in compliance with CEQA. The Planning Commission recommended the City Council adopt either Staff's or the developers' proposed land use alternatives for the Four Opportunity Sites or a reconciled alternative. The Planning Commission also recommended approval of the proposed revised Evergreen Development Policy (EDP) with the following components; (1) Arcadia community center to occur in Phase II; (2) limit the size of a grocery store on the Evergreen Valley College site to 20,000 square feet; (3) Task Force amenity prioritization "H" (in Planning Commission attachment #4); (4) reserve 40 acres on the Campus Industrial site for a high school; and (5) the "residential pool" should incorporate the following: (a) residential "pool" units be a minimum of 500 units (not a maximum); (b) any excess units from the opportunity sites should go to the pool; (c) pool units should be available immediately after Evergreen Development Policy approval; and (d) pool criteria should be flexible to ensure participation of all potential infill parcels.

PUBLIC OUTREACH/INTEREST

- ☐ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)
- ☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)
- ✓ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

As described in the Evergreen Development Policy memorandum, the Evergreen•East Hills Vision Strategy process involved extensive community outreach through open community Task Force meetings, community meetings, Planning Commission hearing, and ultimately will be heard before the City Council. This project goes beyond the requirements of Council Policy 6-30: Public Outreach for Pending Land Use and Development Proposals.

Since August 2005 staff has participated in 35 meetings (not including the 16 Task Force meetings) to take comments and questions from the public and to provide information on the status and key elements of the EEHVS. The 34 meetings included: 13 SNI/NAC meetings, 6 neighborhood meetings, 3 general community meetings, 2 workshops, 2 school board meetings, 2 EIR meetings, 5 City Commission meetings, 1 City Council study session, and 2 District 8 Community Events. The number of attendees at these meetings varied from 5 at the EIR public scoping meeting to 85 at the first general community meeting.

The majority of comments and concerns expressed opposition to any new housing and associated traffic in an area that has recently experienced significant new residential development. Other concerns included the loss of open space, compatibility of proposed developments with existing neighborhoods, the effect of a new full service supermarket at the Evergreen Valley College site on existing grocery stores, and the effect of new development on existing schools.

In addition to community outreach meetings, staff has maintained a growing e-mail distribution list of individuals interested in receiving regular updates on the EEHVS process. Presently, the distribution list includes approximately 370 contacts.

The EEHVS website is a continuously updated resource for finding information about the process including announcements, Task Force meeting information, reference materials, the outreach calendar, public comments and specific topics like schools, retail, the draft Evergreen Development Policy, and the EIR process.

COORDINATION

This report has been prepared in coordination with the Department of Transportation, the Department of Public Works, and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

As stated in the Evergreen Development Policy staff report, the Evergreen•East Hills Vision Strategy project would include significant new infrastructure in the form of transportation investments (new traffic signals, traffic calming facilities, intersection improvements, etc.) in addition to new park and community amenities (new neighborhood parks, regional sports facilities, and community centers). Although the property owners/developers are proposing to fund construction of these new facilities and in some cases to "turnkey" the development of these new facilities, the ongoing operations and maintenance (O&M) of the new facilities is an issue that City staff is currently evaluating.

COST SUMMARY/IMPLICATIONS

Not Applicable

BUDGET REFERENCE

Not Applicable

CEQA

The Evergreen·East Hills Vision Strategy project, including the Evergreen Development Policy update and related General Plan amendments were the subject of an Environmental Impact Report (EIR) entitled, "Evergreen·East Hills Vision Strategy Project", certified by the Planning Commission on November 8, 2006. The appeal period for the EIR closed on November 14, 2006. Three appeals were received during the EIR appeal period. The City Council is scheduled to consider certification of the EIR on December 5, 2006. The EIR discloses that the Evergreen·East Hills Vision Strategy project will result in significant unavoidable impacts, and therefore, the Council will be required to adopt a resolution of findings pursuant to CEQA Guidelines Sections 15091 and 15093.


for JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Stan Ketchum, Principal Planner, at (408) 535-7876